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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1146 OF 2007

Umashankar Purushottam Bind ..Petitioners

Versus

The Municipal Corporation of
Greater Mumbai & Ors. ..Respondents

Mr. Anil Kumar Joshi for the Petitioner.
Mr. A.Y. Sakhare, Senior Advocate with Ms. S.M. Module for respondents.

CORAM: F.I. REBELLO &
J.P.DEVADHAR,JJ.
DATED: 29TH AUGUST, 2007

P.C.:

. Rule. Heard forthwith. The petitioner approached this Court contending that the respondents without authority of law have withheld his contribution towards the Provident Fund. According to the respondents the petitioner is residing in the premises belonging to the Corporation. Though there was a proposal for conversion of the service quarters in favour of a society the agreement between the parties had not been entered into and the Corporation continues to hold the land. It is further set out that there was a policy whereby in such cases on retirement the gratuity amount was to be withheld, but apparently under mistake the gratuity amount was paid. It is, therefore, submitted that they should be allowed to

retain the amount of the Provident Fund and adjust it against the Gratuity dues.

2. We do not propose to go into the controversy as to the status of occupation of the petitioner even though on behalf of the petitioner learned Counsel points out that the society has been formed and he has been allotted necessary shares.

. The short question is whether the respondents can withhold the employee’s Provident Fund for adjusting against the policy decision of not releasing the gratuity dues. Under Section 10 of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 the amount standing to the credit of any member in the Fund or of any exempted employee in a provident fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court. In the instant case what the respondents are seeking to attach is the amount of the Provident Fund towards the gratuity amount paid by them. Gratuity was payable but was to be withheld till the status of the occupation was decided.

. Considering the above the respondents are directed to pay the unpaid amount along with the interest therein. We make it clear that we are not

granting interest at 18% per annum. The interest will be restricted to what would be payable statutorily on on Provident Fund dues not paid on time. The amount to be paid within twelve weeks.

3. It will be open to the respondents to take whatever steps they are entitled to against the petitioners. Rule made absolute accordingly. No order as to costs.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**